

STATE OF MINNESOTA  
COUNTY OF Anoka  
325 East Main Street  
Anoka, MN 55303-2489

FILED  
Jennifer A Schlegel  
Court Administrator

FEB 21 2014

Anoka County, MN  
*JAS*  
Deputy

TENTH JUDICIAL DISTRICT  
DISTRICT COURT

CASE TYPE  
FILE NUMBER 02-cv-14-905

Arnold R. & Shirley J. Anderson  
PLAINTIFF

COMPLAINT

VS.

Medicare Insurance, 7500 Security Boulevard Baltimore, Maryland 21244-1850

Dr. David Kraker, Advanced Spine Associates PA, Spring Lake Park, MN 55432

Dr. Gregg Dyste, Metropolitan Neurosurgery PA, Coon Rapids, MN 55433

Dr. Mark R Mount, E.N.T., Allina Medical Clinic, Coon Rapids, MN 55433

Dr. Steven Lockman, MD, New River Medical Center, Monticello, MN 55362

New River Medical Center, Monticello, Mn 55362

Guardian Angels TCU of Elk River, MN 55330

DEFENDANTS

**COMPLAINT:**

PLAINTIFF, as and for its cause of action against the above-named defendants states and alleges as follows:

1. Dr. David Kraker, Advanced Spine Associates, (operating in Unity Hospital, Fridley, MN)
  - Maiming surgery occurring on February 22, 2010. \_
  - 4.5 hour surgery took 8.5 hours -No EXPLANATION GIVEN \_
  - Patient walked in for surgery.
  - after surgery, left leg was useless!, Quad muscles were no longer visible!
  - No explanation; Dr. Kraker said "he could go to a nursing home!"
  - Requested Sister Kenny Rehab. Physical therapy: **DENIED!**
  - a second surgery was required To repair this damage and help regain use of the left leg
  - completed by a competent surgeon in April, 2011
- 2\_Patient and wife lost their lake cabin as a result of escalating medical bills
3. Patient has never regained full use of left leg
4. Patient was made incontinent after this surgery and only improved with 2<sup>nd</sup> surgery, redquiredx after failure and further damage resulting from Kraker surgery

**EXHIBIT A**

5. Dr. Gregg Dyste denied the patient's Bill of Rights on May 26, 2012 by not accepting patients NO answer when Dr. stated he was doing surgery the next morning. Patient and wife were both present, and stated they "only trusted Dr. Garner. This was totally dismissed by this surgeon, violating the patients "BILL OF RIGHTS". The Dr. would not leave until he talked the tired patient in to signing his paperwork, saying he was with the same group as the trusted surgeon.

The result was the need for a 4<sup>th</sup> surgery to save the patient's life, whose neck was badly damaged following the hasty transfer to New River Medical Center; where the patient did not receive a protective neck collar, that was asked for and denied by Dr. Gregg Dyste who responded "No, it's not necessary!" This surgeon did nothing to help this patient when an injury occurred at this facility (dropped out of a stand-up lift) and a request was made for this surgeon, Dr. Dyste, to get his patient back to the hospital to evaluate him immediately. No help was forthcoming!

6. The facility, New River Medical Center in Monticello, MN was where this accident occurred. The doctor in charge of this 10 bed unit was Dr. Steven Lockman and the incident was not reported nor possibly recorded and the patient was only able to tell his wife after she demanded they stop the heavy drugs they were giving him to prevent him from being able to talk coherently. When he was finally out of the fog of heavy drugs he whispered to his wife that he had been dropped out of a stand-up lift. Thus, all personnel involved in his care will have to be subpoenaed to get at the truth of their actions.

The patient was released on June 22, 2012 to be taken to a "Nursing Home chosen by this facility and expected to be delivered there by the patient's wife who after seeing the nursing home was helped by the aides to return to their car and drive to the emergency room of the hospital where the surgery originated; Mercy Hospital of Anoka, MN., where the patient received an MRI that determined the patient had a severe neck injury and needed surgery according to the attending neurosurgeon, Dr. Uittenbogaard. With this finding, the patients' wife then stated that she did not want anyone to operate other than Dr. Hart Garner, the only trusted surgeon.

This was the damage done at New River Medical Center, but never reported or admitted to when asked what happened to the patient when the lump was noticed on his neck by a returning physical therapist and also questioned by the patient's wife along with the curling up of his fingers and his inability to hold or grasp cards, spoons, forks, etc. No information was forthcoming from the staff or doctor.

#### 7. The Facility, Guardian Angels TCU of Elk River, MN

The patient went here after the 4<sup>th</sup> surgery for rehabilitation. The first month the patient had pain and could not do much. By the second month the patient was ready to do more aggressive PT, but found it to be lacking and wanted to work at building his strength back up. Their agenda was something other than getting the patient on his feet again. By the end of the 2<sup>nd</sup> month they were planning on him moving to their "Nursing Home" where as they stated, "No, he won't get any physical therapy there!"

So, we made the decision to get him back home where he would receive full-physical therapy and care from his trusted wife.

Against their wishes to hide the patient away, we went with our right for him to come home. They transported him to patient's home that evening and when his wife started changing him for bed, she found he was bleeding on his buttocks. She immediately called 911 and he was transported to Mercy

Hospital. He had skin breakdown and spent the next 3 weeks in the hospital on a pressure sensitive mattress and chair.

Skin breakdown takes time to develop and could have only happened while the patient was in the care of this facility.

This wound was not fully addressed until December 2012/January 2013 while in the hospital for multiple concerns. He then received a wound care specialist to tend to this ongoing wound.

8. Dr. Mark R. Mount, E.N.T. Allina Clinic, Coon Rapids, MN

Patient needed hearing aide repaired. Their Audiology department said no, it was too old. Patient then requested a new one and would have to be tested. After one of the appointments, they said he would have to see the E.N.T. doctor. This appointment was on March 31, 2013. Dr. Mount saw the patient and said he wanted to put in ear tubes. We stated we only need a hearing aide, his hearing is most likely worse do to the to neck surgeries.

Our NO answer was dismissed, again!

The ear tubes were done in the doctor's office. The patient went to the hospital on April 4<sup>th</sup> with trauma of some sort. We were told at the hospital, by a Dr. Severson, they don't do ear, nose, and throat! So, they were calling it possible pneumonia and CHF (there stand-by for Medicare patient). The patient was sent home, sick when a nurse came to the house, she said he had to go to the hospital. I told her he just came from there and is afraid to go back. She said she was calling 911 and I tried to explain to him that he needed to go. This was April 9<sup>th</sup>. He was returned home after a few days and, again, without treatment.

He finally saw his primary physician on April 23, 2016; and YES, HE HAD AN EAR INFECTION IN BOTH EARS!

We saw the E.N.T., Dr. Mount, on April 24, 2013 and YES HE HAS AN EAR INFECTION IN BOTH EARS AND PRESCRIPTIONS WERE SUBMITTED.

The result of these ear infections, became "Chronic" as stated by a doctor at the U of M hospital and they created a TOXIC EFFECT TO THE PATIENT'S NOW, VERY FRAGILE HEALTH Medicare, again, did nothing to monitor and hold this doctor accountable!

9 this is your Medicare in action. Do you really want to look forward to this lack of care once you reach retirement? Or do you want to have the same responsible care insurance your congressmen have?

WHEREFORE, Plaintiff demands judgment against defendants as follows:

-We want full repayment to Medicare for the fees paid to the defendants.

**We want all of our expenses incurred as a result of these failed, maiming surgeries and subsequent further surgeries to be paid by the surgeons and facilities causing harm to the patient.**

**Surgeons named: David Kraker, Gregg Dyste;**

**Doctors named: Dr. Steven Lockman, Dr. Mark R. Mount for failure to do their job in providing care and proper treatment to the patient.**

**-We want all facilities that failed the patient, causing further harm to said patient as listed. Their received fees to be paid back to Medicare, and these facilities to be closely monitored and reported on a quarterly basis.**


**-We want our cabin and all the boats and equipment we left behind returned to our ownership or, a property of equivalent value, along with all the furnishings and equipment we left behind, or, replacement value.**

**-We want full medical coverage for any of this patients future needs resulting from this and further maiming assaults, occurring to this patient.**

**-We want full guarantees that Medicare will start policing all surgeons, doctors and facilities that are contracted to care for patients.**

**-Finally, we want punitive damages in the amount of 200 Million dollars or, what the jury feels is adequate.**

---

  
PLAINTIFF

#### VERIFICATION AND ACKNOWLEDGEMENT

A. I have read this document. To the best of my knowledge, information the information, contained in the document is well grounded in fact and is warranted by existing law.

B. I have not been determined by any court in Minnesota or in any other State to be a frivolous litigant or subject to an Order precluding me from serving and filing this document.


C. I am not serving or filing this document for any improper purpose, such as to harass the other party or to cause delay or needless increase in the cost of litigation or to commit a fraud on the Court.

D. I understand that if I am not telling the truth or if I am misleading the court or if I am serving or filing this document for any improper purpose, the court can order me to pay money to the other party, including reasonable expenses incurred by the other party because of the serving or filing of this document such as court costs, and reasonable attorneys fees.

Shirley J. Anderson  
PLAINTIFF  
13216 Martin SE, NW,  
ADDRESS  
Coon Rapids, MN. 55448  
763-754-0919  
TELEPHONE

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 21ST DAY OF FEBRUARY, 2014

Merry Houn  
NOTARY PUBLIC/COURT CLERK

MY COMMISSION EXPIRES  
MERRY HOUN  
Notary Public - Minnesota  
My Commission Expires Jan 31, 2018